



OEWG REPORT

*Civil society perspectives on the open-ended working
group on nuclear disarmament
2–13 May 2016*



Reaching Critical Will

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The OEWG Report is published by Reaching Critical Will, the disarmament programme of the Women's International League for Peace and Freedom

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EDITORIAL: GREEN EGGS AND BAN

Ray Acheson | *Reaching Critical Will* of WILPF

The second week of the open-ended working group on nuclear disarmament (OEWG) is illuminating a clear delineation between those who want to abolish nuclear weapons and those who don't. Mexico's Ambassador Lomonaco challenged Japan and other nuclear-supportive states over their commitment to change, asking whether their so-called progressive approach is really about retrenchment of the status quo. The engagements from those states certainly give the impression they are seeking foremost to preserve a place for nuclear weapons in their political and military arsenals, and in those of their nuclear-armed allies. As negotiations begin on an instrument to prohibit nuclear weapons, however, those engagements will likely change.

Fear of change

With an increasing sense of desperation, the nuclear-supportive OEWG participants seem more eager to shut down discussions than respond to questions about their commitment to complying with their nuclear Non-Proliferation Treaty (NPT) obligations and pursuing effective measures for nuclear disarmament. As a treaty banning nuclear weapons quickly gains traction as the most feasible, practical, and effective measure under consideration, these states spend the majority of their time opposing it rather than offering credible alternative suggestions. Japan's delegation even encouraged the Chair to end discussions at the OEWG on the question about elements for legal provisions, as there is "clearly no convergence" on the best way forward.

There is convergence, however. The trouble for Japan's delegation and its nuclear-supportive colleagues is that the convergence is around a legally binding instrument to prohibit nuclear weapons. The development of such a treaty probably appears problematic for these states—but only insofar as they insist on supporting nuclear weapons. If they instead choose to align their policies and practices with their legal obligations and stated commitments and values, agreeing to a prohibition on

nuclear weapons would not be a problem for them.

The idea that nuclear weapons provide security has already been rejected by most of the world's governments. Several countries developing or possessing nuclear weapons renounced their arsenals, proving, as Algeria said, that it is possible to do so. Kathleen Lawand of the International Committee of the Red Cross (ICRC) emphasised today that weapons that risk catastrophic humanitarian consequences cannot seriously be viewed as protecting civilians or humanity. Those governments asserting a national security benefit from these weapons will likely relinquish this view once ban treaty negotiations are underway, when debates in parliaments, articles in the media, public engagements, and bilateral and multilateral discussions increasingly challenge their support for nuclear weapons. Much like the Dr. Seuss character who resists trying green eggs and ham and then discovers he actually loves them, the nuclear-supportive states may find that their resistance to a prohibition on nuclear weapons can be overcome once they experience its economic, political, and security benefits.

Courage and ambition

But until then, it is up to non-nuclear-armed states to take the initiative to prohibit nuclear weapons. As delegation after delegation has pointed out, there can be no more waiting for leadership from the nuclear-armed or their nuclear-supportive allies. If the nuclear-armed states wanted nuclear disarmament, Brazil noted last week, we would have a nuclear weapon free world already. Similarly, Ireland pointed out that if article VI was being fulfilled, the OEWG would need not have been established. The interventions and working papers of the nuclear-supportive states participating in the OEWG, which Jamaica said seem aimed at obfuscation and maintenance of the status quo, could make us "pessimistic about overcoming the 70 year addiction to nuclear weapons." But as Sokka Gakkai International's representa-

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Editorial continued

tive said, those who are ready for a nuclear weapon free world are ready to ban nuclear weapons.

A growing majority of states have expressed their readiness for this approach. Multiple working papers supported collectively by the vast majority of states urge negotiations on a legally binding instrument prohibiting nuclear weapons as at least one necessary and urgent step towards achieving the elimination of nuclear weapons. On Tuesday, committed states continued to discuss potential elements for such an instrument, each urging the development of a comprehensive set of prohibitions and positive obligations that lend to building and solidifying the norm against nuclear weapon possession and use. These discussions and proposals are laying the groundwork for the commencement of negotiations, even in the face of opposition from nuclear-supportive states.

While those states question the effectiveness of a prohibition, New Zealand and Mexico pointed out on Monday that the effectiveness of any particular measure or treaty cannot be proven advance. As Ambassador Higgle of New Zealand pointed out, such a requirement is a recipe for never doing anything—which is what has been happening for the past 20 years with the “progressive approach” agenda.

Prohibition is not premature, argued Ambassador Thomas Hajnoczi of Austria. We have waited 70 years. Looking at other weapons conventions one can see that prohibition precedes elimination and does not destabilise the security environment.

Such arguments are not based on facts but on fear of change. Overcoming this fear is imperative to making progress. “We know some find anything that disturbs the status quo to be too ambitious,” Kenya acknowledged on Tuesday. “But being ambitious is the only way we’ll make a contribution.” •



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Calendar of events

When	What	Where
10:00-10:15	General remarks by Mr. Kim Won-soo, High Representative for Disarmament Affairs	Room XIX
10:15-13:00	Panel V on possible pathways to take forward multilateral nuclear disarmament negotiations; exchange of views	Room XIX
15:00-18:00	Exchange of views on panel V continued	Room XIX

NEWS IN BRIEF

Mia Gandenberger | *Reaching Critical Will of WILPF*

The News in Brief is not a comprehensive summary of all statements. It highlights positions on a few critical issues covered during plenary discussions. Today's brief covers the continued exchange of views on panel IV on essential elements that could form part of effective legal measures, legal provisions, and norms that will need to be concluded to attain and maintain world without nuclear weapons.

Instruments and approaches

- Bulgaria, Canada highlighted WP.9 and the measures contained therein.
- DRC, Indonesia, Malaysia, Kenya, Egypt, Jamaica, Austria called for the negotiation of a legally binding prohibition of nuclear weapons.
- Austria introduced WP.36 on the legal gap with recommendations to the OEWG from 126 states signed on to the humanitarian pledge. A legally binding prohibition will have to have to be part of any new instrument.
- Ireland, Serbia, Guatemala expressed support for that WP.
- Malaysia, South Africa, Indonesia, Jamaica highlighted WP.34 and the measures contained therein.
- Canada reiterated its belief that there is no legal gap to fill.
- Ireland pointed out that the legal gap on nuclear weapons was identified in 1998.
- ICRC argued there is a legal gap but not a legal vacuum, as the IHL framework applies to nuclear weapons.
- The ICRC recalled the humanitarian consequences of nuclear weapons, which led them to urge for negotiations to prohibit use and eliminate nuclear weapons.
- Cuba called for a comprehensive nuclear weapons convention and highlighted UNGA resolution 68/32 and its WP.12.
- Iran highlighted UNGA resolutions calling for the need to commence negotiations on a comprehensive nuclear weapons convention in the CD.
- Iran argued a prohibition treaty would not contribute much to the advancement of nuclear disarmament.

Elements

- DRC suggested the new treaty should include prohibitions on possession, use, threat of use, stockpiling, and transfer of nuclear weapons.
- South Africa expressed support for WP.34's sug-

gested elements and noted some other elements are also already in NWFZ treaties.

- Indonesia highlighted the list of elements contained in WP.34, namely a prohibition of possession of nuclear weapons or other nuclear explosive devices, their use and threat of use, acquisition, stockpiling, development, testing, production, transfer, transit, stationing, deployment, as well as assisting, encouraging or inducing, directly or indirectly, the engagement in any activity prohibited by the legally-binding instrument.
- Mines Action Canada stressed the importance of provisions for victim's assistance in a prohibition treaty, referring to possible lessons to be drawn from existing instruments such as the Mine Ban Treaty, the Convention on Cluster Munitions, the Convention on the Rights of Persons with Disabilities, and the UN Declaration on the Rights of Indigenous Peoples. It also highlighted the recommendations in its working paper.
- Ireland highlighted provisions for victim assistance and prohibitions on financing in a new legal instrument.
- Thailand thought a new legal instrument should include prohibitions on the use, threat of use, stockpiling, transfer, and possession as well as the recognition of the rights of victims or mechanisms for dispute settlement.
- Kenya suggested prohibitions on the development, production, acquisition, stockpiling, transfer, hosting, and handling nuclear weapons or nuclear weapons material as well as extending assistance to NW related programmes. It also called for an international monitoring mechanism pending that, in lieu, other existing provisions and frameworks such as the IAEA, NPT, CTBT would also be used.
- Egypt outlined that an instrument, comprised of an objective, definitions, scope, and provisions on verification provisions and legal and institutional arrangements, should support article VI of the NPT, ensure irreversibility, avoid contradictions, contribute to restoring balance.
- Jamaica explained that NGO/3 is a good starting point for discussions of elements and principles for a prohibition treaty.
- Guatemala supported a legally binding instrument with elements as listed in Annex I of synthesis paper. Further provisions for such a treaty can be drawn from the BTWC, CWC, Convention on Cluster Munitions, and others building on existing norms.

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News in brief, continued

- IPPNW Costa Rica/ICAN supported the negotiation of a treaty with a broad range of prohibitions on nuclear weapons, namely on their development, production, testing, acquisition, stockpiling, transfer, deployment, threat of use and use as well as prohibitions on any assistance, financing, encouragement and inducement of these acts.
- Mexico thought an instrument should include prohibitions on possession, acquisition, stockpiling, development, transfer, stationing and deployment. Further, assistance or inducement in anyway of anyone to these activities should be prohibited. It should also include prohibitions on financing and modernisation.
- UNIDIR highlighted chapter 4 of its study “A prohibition on nuclear weapons” co-produced with ILPI and the elements discussed therein.
- Palau reiterated the importance of including provisions regarding the rights of victims and survivors of nuclear explosions.

Process

- Bulgaria thought a prohibition would be the last effort after the elimination of nuclear weapons. It would only be effective with the substantive participation of nuclear-armed states.
- Poland, Germany, Japan drew attention to the mandate contained in UNGA resolution 70/33 establishing this OEWG.
- Kenya explained that the participation of nuclear-armed states while desirable is not necessary to begin negotiations or conclude prohibition treaty.
- Japan thought the prospect of convergence on different views are dim, therefore it is not productive to further pursue this question. Further the OEWG is not the appropriate venue to make the judgment on the legal matters.
- Austria highlighted that in disarmament history the prohibition norm is established before the elimination of a weapon type.
- Mexico noted no objections to the elements of prohibitions discussed.
- Germany objected and recalled the reasons for its opposition to a prohibition treaty previously mentioned.
- Japan did not see convergence toward the prohibition of nuclear weapons. •

AUSTRALIA NEITHER SUPPORTS NOR OPPOSES A BAN TREATY

Tim Wright | ICAN

From now until 2 July, Australia is officially neutral on the question of a treaty banning nuclear weapons. It has no position on the matter.

This is because the Australian government is in caretaker mode ahead of a national election, and the major political parties fundamentally disagree on a ban.

The conservative Liberal–National government, which has been in power since 2013, strongly opposes the idea of a global prohibition treaty.

The Labor party, by contrast, says it firmly supports the negotiation of a global treaty banning nuclear weapons based on their catastrophic humanitarian consequences.

In its national policy platform, it welcomes “the growing global movement of nations that is supporting this objective.”

The caretaker government can only promote positions for which there is clear bipartisan support, such as entry into force of the CTBT and negotiation of an FMCT.

Australia addressed the working group this week on that basis. It made no mention of the main topic of discussion: a treaty banning nuclear weapons.

Australia informed the so-called “progressive approach” supporters that it would “keep a low profile” for the remainder of this session of the working group.

For one of the most vocal opponents of a treaty banning nuclear weapons to be neutralised in this way is a major blow for the anti-ban camp.

An opinion poll in 2014 showed that 84% of Australians want the government to support international efforts to ban nuclear weapons.

Australia’s resistance, until now, to a treaty banning nuclear weapons stems from a belief that US nuclear weapons keep the country “secure and prosperous”. •



BELGIUM AT THE OEWG: PREACH WHAT YOU DON'T PRACTICE

Willem Staes | Pax Christi Flanders

“Disarmament and non-proliferation are a central concern in our security policy. We subscribe to all credible and targeted efforts aimed at effective and balanced disarmament. We choose for a realistic and pragmatic approach in which the NPT and the NATO Strategic Concept are the cornerstones.” One would think Belgium has a straightforward disarmament policy when reading the governmental agreement of the new Belgian government in October 2014. Reality, however, shows a different picture. Although Belgium, a NATO member hosting 10 to 20 American nuclear weapons on its soil, claims to be a “bridge” between two opposing camps, it has clearly chosen the side of the nuclear status quo.

When the UN General Assembly last year voted to create a new OEWG to take forward discussions on nuclear disarmament, Belgium was among the few states to abstain. Belgian officials have repeatedly complained that the OEWG is “imbalanced,” “polarising,” and “non-inclusive”. However, it failed to mention that it was the nuclear-armed states themselves that chose to boycott the OEWG, and that an overwhelming majority of over 127 countries willing to break the decades-old nuclear disarmament paralysis can hardly be considered “polarising”. Continued support for a world in which states possessing nuclear weapons are planning long term modernisation of their nuclear arsenals, on the other hand, does polarize.

Not-so-progressive approach

Belgium subscribes to the so-called progressive approach for nuclear disarmament, which aims to stall progress towards a nuclear weapon ban treaty. Despite a self-declared “bridging role,” Belgium claims that it is up to the “humanitarian camp” to compromise, and has to date not offered possible elements for compromise itself. At the same time, it vividly opposes convincing arguments that a ban treaty and a “building blocks” approach are not mutually exclusive, but can be pursued simultaneously.

Belgian officials also fail to explain why the measures that have failed to advance progress for decades would all of a sudden start working in 2016. When asked what causes them to believe that nuclear-armed states would now start implementing promises they have failed to deliver on for over two decades, there is only silence.

For a country claiming to support “effective” and “realistic” measures it seems odd to continue supporting an approach that recycles failed approaches from the past. Proposing “concrete steps” without explaining how they can effectively materialise in the short term does not seem to be a “pragmatic” approach.

(Don't) practice what you preach

Belgian authorities also tirelessly insist on the importance of transparency and confidence-building measures. Again, reality shows at home a different picture: Belgium refuses to confirm the presence of US nuclear weapons on its territory, has not taken any meaningful action to decrease the importance of nuclear weapons in the NATO security doctrine, and refuses to bilaterally discuss the removal of the American B61s with the United States from Belgian soil (or even raise the issue multilaterally, within NATO discussions).

In its most recent working paper 25, “The road to zero,” Belgium and its allies fail to mention any concrete actions they themselves will take to advance nuclear disarmament in the short term. They call upon the US and Russia to advance arms control agreements (hardly a new element), and stress that “multilateral nuclear disarmament urgently needs to be revitalized” (without even trying to suggest possible ways how this can be done in practice).

In “The road to zero” Belgium also calls upon others to strengthen regional nuclear weapon free zones, while continuing to reserve its own right to rely on nuclear weapons for its own “security”. The one action Belgium can take itself to revitalise US-Russia disarmament talks, the removal from American nuclear weapons from European territory, is stubbornly ignored.

One effective way forward

During Monday's session at the OEWG, Belgium claimed nuclear weapon states would be so enraged by a ban treaty, that they might stop implementing their NPT obligations altogether. However, the opposite is actually true: the lack of real progress in nuclear disarmament threatens the legitimacy of the whole NPT. “If the nuclear weapon states are not upholding their part of the NPT deal (disarmament), why should we respect our commitments (non-proliferation),” the non-nuclear –armed states ask themselves louder and louder. Indeed, a ban treaty is the only credible and effective way forward to save the NPT from total collapse and prevent a new nuclear arms race.

Day after day, the momentum towards a ban is growing. The road towards effective nuclear disarmament is pointing in one direction. The choice is therefore clear: will Belgium continue to choose the side of a tiny status quo minority, or will it join the overwhelming majority of countries that will start international negotiations on a nuclear weapons ban treaty in 2017, with or without the nuclear-armed states? •



EVENT: SHORT FUSES AND SPIRALING RISKS

Jessica Lawson | *Reaching Critical Will of WILPF*

Dr. Annika Thunborg, Director and Deputy Head of the Department for Disarmament and Non-Proliferation for the Swedish Ministry of Foreign Affairs moderated an otherwise all-male panel discussion, hosted by the permanent missions of Malaysia, Nigeria, Sweden, and Switzerland in cooperation with Global Zero.

The panel consisted of Dr. Bruce Blair, Co-Founder of Global Zero, Major General (ret.) Pavel Zolotarev, former Deputy Chief of Staff, Defense Council of Russia, and General (ret.) James Cartwright, former Vice Chairman of the Joint Chiefs of Staff, United States. The speakers focused on de-alerting and other nuclear risk reduction measures, referencing an April 2015 report by Global Zero, *De-alerting and Stabilizing the World's Nuclear Force Postures*. This report concluded that the risks of the use of nuclear weapons today are too high.

Dr. Blair discussed some of the risks associated with the security dilemma between the US and Russia, which is compounded by the fact that both countries have missiles on hair trigger alert, poised to launch in a matter of minutes. He also mentioned that there are scores of conceivable scenarios that could result in nuclear detonations in other regions, including East Asia, South Asia, and the Korean Peninsula.

He argued that nuclear weapon modernisation will not reduce, let alone eliminate, any of the risks associated with nuclear weapons. He said that the only way to eliminate the risk is to eliminate the weapons. He suggested a list of "interim measures," which mainly consist of commitments that should be taken between the US and Russia—two of the states that aren't even participating in the OEWG.

Major General (ret.) Zolotarev emphasised that since the end of the Cold War, the risk of deliberate first use of nuclear weapons has decreased to almost zero, arguing that no political leader would intentionally use nuclear weapons first. However the risk is mainly due to Russia and the US maintaining missiles on high alert in case of a retaliatory strike. He said that early warning systems can fail as a result of many factors, including natural, technical, and organisational. Major General Zolotarev suggested that because of this, military and political leadership should be relieved of responding to these alarms during peacetime, since they will certainly be false. He also suggested one of the recommendations of the Global Zero report, which is to establish an information exchange centre on the early warning systems between the US, Russia, and China.

General (ret.) Cartwright reinforced much of what Major General Zolotarev discussed regarding the need to slow down the decision time to avoid detonation of nuclear weapons. He argued that a centre to share information on early warning will help to increase the protection of the population. He also emphasised the threat of nuclear weapons reaching the hands of "irrational actors," which he said includes leaders and terrorists. But of course, as UN Secretary General Ban Ki Moon has said, "there are no right hands for the wrong weapons".

The discussion was summarized by Ambassador Urs Schmid of Switzerland, (another man), who said that he hopes the OEWG report to the UN General Assembly contains concrete recommendations on risk reduction. •

